

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEVE AXELROTH

vs.

CINDY LONESS CARPENTRY,
JOHN LONESS, CINDY LONESS, :
BERN TOWNSHIP, and POLICE :
OFFICER MICHAEL A. HOFFERT :
BADGE NO. 005 :

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CIVIL ACTION NO. 02-CV-4418

THE LONESS DEFENDANTS' SUMMARY OF THE CASE

PROCEDURAL HISTORY

Plaintiff filed his original Complaint in this case against Defendants Cindy Loness Carpentry, John Loness, Cindy Loness (the "Loness Defendants"), Bern Township, Police Officer Michael A. Hoffert and the Bern Township Police Department on July 3, 2002. Plaintiff sought judgment "in an amount in excess of One Hundred Thousand Dollars (\$100,000) plus interest, costs, attorney's fees and punitive damages." Plaintiff subsequently filed an Amended Complaint and a Second Amended Complaint in this case.

Plaintiff attempted service on the Loness Defendants on numerous occasions by first-class mail and by certified mail. Plaintiff subsequently had the Second Amended Complaint hand delivered to Cindy Loness. It is the Loness Defendants' contention, as set forth more fully in their Motion to Vacate Entry of Default, that proper service was never made on them. It is also their contention that the default entered against them was improperly entered and should be vacated.

THE LONESS DEFENDANTS' CONTENTIONS

The Loness Defendants contend, for the reasons set forth above, that this Non-Jury Trial on Damages Only should be postponed pending the decision of this Court on their Motion to Vacate Default Judgment.

The Loness Defendants further contend that they are not liable to Plaintiff for the damages he alleges in his Second Amended Complaint. The Loness Defendants attached a draft of their Answer to Plaintiff's Second Amended Complaint to their Motion to Vacate Default Judgment. This Answer illustrates that the Loness Defendants have meritorious defenses to Plaintiff's claims against them. The Loness Defendants did not act wrongfully in seeking to have Plaintiff arrested.

The Loness Defendants also contend that they were not present when the alleged injuries to Plaintiff occurred when he was being transported from Abington to Bern Township by Officer Michael Hoffert. The Loness Defendants contend that they should not be made to pay damages to Plaintiff for injuries allegedly caused by Officer Hoffert when they were not present and when they had no control over Officer Hoffert's conduct.

The Loness Defendants have no knowledge of Plaintiff's alleged injuries or the extent of those injuries. The Loness Defendants have no knowledge of the alleged loss of income asserted by Plaintiff as a result of his alleged injuries.

Respectfully submitted,

ROLAND & SCHLEGEL, P.C.

By: _____
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Counsel for Defendants, Cindy Lones
Carpentry, John Lones and Cindy Lones

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CERTIFICATE OF SERVICE

I, EDWIN L. STOCK, ESQUIRE, certify that on the 17th day of April, 2003, I served a true and correct copy of the within Summary of the Case addressed as follows:

Gregg L. Zeff, Esquire
Frost & Zeff
Pier Five at Penn's Landing
7 North Columbus Boulevard
Philadelphia, PA 19106-1492

Andrew Bellwoar, Esquire
Siana, Bellwoar & McAndrew, LLP
941 Pottstown Pike
P.O. Box 630
Exton, PA 19341

by depositing copies thereof in the United States Mail, first class, postage prepaid.

Edwin L. Stock, Esquire